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EXAMINER	
GODBOLD, DOUGLAS	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	**Application No.** 10/695,125	**Applicant(s)** SINGHAL, MANOJ	
	Examiner DOUGLAS C. GODBOLD	**Art Unit** 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 9-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-5, and 9-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to correspondence filed February 3, 209 in reference to application 10/695,125. Claims 1-5, and 9-15 are pending and have been examined.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 3, 2009 has been entered.

Response to Amendment

3. The amendment filed February 3, 2009 has been accepted and considered in this office action. Claims 1 and 3 have been amended, and claims 6, 7, and 17-27 have been cancelled.

Response to Arguments

4. Applicant's arguments filed February 3, 2009 have been fully considered but they are not persuasive.

Applicant has argued that because Tzanetakis already teaches the use of audio files, it would not have been obvious to combine Saunders and Tzanetakis with Benyassine to teach the new limitations found in claim 1. Upon further consideration of the references in question, the examiner now believes, that Saunders and Tzanetakis further in view of Pohlmann teaches the limitations of "wherein selecting audio frequency components comprises selecting audio frequency components having a frequency less than a certain value." For instance, Saunders figure 3 demonstrates that an audio signal is sampled at a rate of 16Khz. The audio files in Tzanetakis, as mentioned by the applicant are in MPEG form, which of course is a format that codes audio samples that was at one time sampled at some critical sampling rate. Pohlmann teaches the well known method of limiting audio frequencies to ½ the sampling rate. This frequency of f/2, where f is the sampling rate is commonly known as the Nyquist frequency. This low pass Nyquist filter limits the spectral components in the audio signal to those below the Nyquist frequency, and therefore the use of such a filter in the combination of Saunders and Tzanetakis during sampling would constitute "selecting audio frequency components having a frequency less than a certain value."

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-5 and 9-14 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent[1] and recent Federal Circuit decisions[2] indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example each step in the method of claim 1 could be completed by a human performing analysis on a written representation of an audio signal, for instance a printout of a waveform. As the analysis requires no specific hardware or device, these claims are held to be non-statutory. Claim 15 however *IS* statutory as in contains steps, such as converting a signal from analog to digital, and storing and audio signal the requires some sort of device to complete.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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[1] *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

[2] *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

8. Claims 1, 3-5, 10, 11-13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saunders (Real-Time Discrimination of Broadcast Speech/Music) in view of Tzanetakis et al (Sound analysis Using MPEG Compressed Audio) in view of Pohlmann (Principles of Digital Audio).

9. Consider claim 1, Saunders teaches a method for classifying an audio signal (we describe a technique which is successful at discriminating speech from music; page 993, column 1, line 1), the method comprising:

receiving an audio signal to be classified (this is a technique for discriminating speech from music from an FM broadcast; page 993, column 1, line 2);

analyzing selected audio signal components (The first step is to measure the ZCR of the signal over a 2.4 second segment of the data; page 994, column 2, line 43);

recording a result of analysis of the selected audio signal components (would be inherent in order to compare it);

comparing the recorded result of analysis to a threshold value (If this statistic exceeds a specific threshold, the distribution outside these bounds is significantly skewed and the waveform is likely speech; page 994, column 2, line 43); and

classifying the audio signal based upon comparison of the recorded result of analysis and the threshold value (If this statistic exceeds a specific threshold, the distribution outside these bounds is significantly skewed and the waveform is likely speech; page 994, column 2, line 43).

Saunders does not specifically teach that the audio signal components are audio frequency components.

In the same field of audio analysis, Tzanetakis teaches the audio signal components are audio frequency components. (Tzanetakis analyzes MPEG audio files, which stores subband information that were converted via a filter bank; overview of MPEG 2. IN order to use traditional analysis such as zero-crossing, MPEG data must be decoded; introduction 1, paragraph 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the decompression of Tzanetakis with system of Saunders in order to be able to apply the traditional methods of Saunders to MPEG audio files, Cook introduction 1, paragraph 2.

Saunders and Tzanetakis do not specifically teach selected audio frequency components having a frequency less than a predetermined frequency.

In the same field of audio encoding, Pohlmann teaches selecting audio frequency components having a frequency less than a predetermined frequency (sampled audio must be passed through a low pass filter at the Nyquist frequency in order to prevent distortion called aliasing; page 30, prevention section. By Nyquist filtering, signal components have been reduced.).

Therefore it would have been obvious to combine the sampling of Saunders and Tzanetakis with the filtering of Pohlmann in order to prevent aliasing during the sampling of an audio signal, thus maintaining audio quality.

10. Consider claim 3, Saunders and Tzanetakis teach the method according to claim 1, wherein analyzing the selected audio frequency components comprises transforming the selected audio frequency components to time domain components (Tzanetakis analyzes MPEG audio files, which stores subband information that were converted via a filter bank; overview of MPEG 2. decoding MPEG inherently comprises transforming subband information back to time domain signals) and counting zero point transitions of the selected audio signal components (The first step is to measure the ZCR of the signal over a 2.4 second segment of the data; page 994, column 2, line 43. Measuring the Zero Crossing Rate would entail counting the number of zero crossings).

11. Consider claim 4, Saunders and Tzanetakis teach the method according to claim 1, wherein recording a result of analysis of the selected audio frequency components comprises transforming the selected audio frequency components to time domain components (Tzanetakis analyzes MPEG audio files, which stores subband information that were converted via a filter bank; overview of MPEG 2. decoding MPEG inherently comprises transforming subband information back to time domain signals) and recording a count value of a number of zero point transitions of the selected audio signal components (The first step is to measure the ZCR of the signal over a 2.4 second segment of the data; page 994, column 2, line 43. Measuring the Zero Crossing Rate would entail counting the number of zero crossings. This number would inherently have to be stored somewhere in order to process it or manipulate it).

Consider claim 5, Saunders, Tzanetakis and Pohlmann the method according to claim 1, further comprising selecting audio frequency components prior to analyzing selected audio frequency components, wherein said selecting audio frequency components comprises passing the audio signal through a low pass filter for filtering out audio frequency components having a frequency greater than a predetermined frequency thereby reducing an amount of audio information to be analyzed. (Pohlmann, sampled audio must be passed through a low pass filter at the Nyquist frequency in order to prevent distortion called aliasing; page 30, prevention section. By Nyquist filtering, signal components have been reduced.).

12. Consider claim 10, Saunders teaches the method according to claim 1, wherein classifying the audio signal occurs at a receiving end of an audio transmission system (this is a technique for discriminating speech from music from an FM broadcast; page 993, column 1, line 2).

13. Consider claim 11, Saunders teaches the method according to claim 1, wherein the audio signal is one of an analog signal and a digital signal (A sample rate of 16Khz was chosen for this discrimination technique; page 995, column 1 line 1. If something is sampled it is well understood that it is being converted to a digital signal. this is a technique for discriminating speech from music from an FM broadcast; page 993, column 1, line 2. This further tells us that the signal started out as an analog signal as at the time of the publication of Saunders all FM broadcasts were analog.).

14. Consider claim 12, Saunders, Tzanetakis, and Pohlmann teach the method according to claim 1, but does not specifically teach wherein the threshold value used in the comparison is pre-determined and pre-set by a user.

However Saunders does teach Data was collected manually by listening, collecting and storing features, and labeling the segment. A variety of content was processed, including talk, commercials, and many types of music. Once the classifier was trained, the parameters were stored and fed into the real-time feature extraction/classifier routine; page 995, column 1, line 33.

With data being collected manually, it must be entered manually, and although is not specifically the threshold, one of ordinary skill in the art that the training of the classifier by manually collecting data is changing the threshold. Therefore in fact, the user is in a way changing the threshold value is preset and determined by the user.

15. Consider claim 13, Saunders teaches the method according to claim 1, wherein the threshold value used in the comparison determined through trial and error of a plurality of iterations in a comparing device (Data was collected manually by listening, collecting and storing features, and labeling the segment. A variety of content was processed, including talk, commercials, and many types of music. Once the classifier was trained, the parameters were stored and fed into the real-time feature extraction/classifier routine; page 995, column 1, line 33).

16. Consider claim 14, Saunders teaches the method according to claim 1, wherein analyzing selected audio frequency components comprises counting zero point transitions of the audio signal for a predetermined period of time (The first step is to measure the ZCR of the signal over a 2.4 second segment of the data; page 994, column 2, line 43. Measuring the Zero Crossing Rate would entail counting the number of zero crossings).

17. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saunders in view of Tzanetakis in view of Pohlmann as applied to claim 1 above, and further in view of Carey (A Comparison of Features for Speech, Music Discrimination).

18. Consider claim 2, Saunders in view of Tzanetakis and Pohlmann teaches the method according to claim 1, but does not specifically teach wherein classifying the audio signal based upon comparison of the recorded result of analysis and the threshold value further comprises:

if the recorded result of analysis is greater than the threshold value, then the audio signal is determined to be music; and

if the recorded result of analysis is less than the threshold value, then the audio signal is determined to be speech.

In the same field of speech/music discrimination, Carey teaches if the recorded result of analysis is greater than the threshold value, then the audio signal is determined

to be music (table 1 shows that the mean value of number of zero crossing (u) for music 0.18 is greater than that of speech 0.17); and

if the recorded result of analysis is less than the threshold value, then the audio signal is determined to be speech (table 1 shows the mean value of zero crossing for speech 0.17 was less that music 0.18).

Although Saunders in view of Tzanetakis and Pohlmann uses a slightly different zero crossing analysis method than does Carey, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the parameters of Carey as this method would be computationally inexpensive (Carey page 151, column 2, section 4.4).

19. Claims 9, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saunders and in view of Tzanetakis and Pohlmann as applied to claim 1 above and further in view of Benyassine.

20. Consider claim 9, Saunders and Tzanetakis and Pohlmann teach the method according to claim 1, but does not teach specifically wherein classifying the audio signal occurs at a transmitting end of an audio transmission system.

However in the same field of music and speech discrimination Benyassine teaches classifying the audio signals at a transmitting end of an audio transmission system (Figure 1, encoder 112, part of transmission side, may contain a music classifier with voice activity detector; column 3, line 62.)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to classify the music or voice at the transmitting side of the system as taught by Benyassine in order to determine properties of the signal in order to best encode the signal for transmission (Benyassine; column 1 line 62 - column 2 line 13).

21. Consider claim 15, Saunders Tzanetakis and Pohlmann teach the method according to claim 1, but does not specifically teach further comprising:

converting the audio signal from an analog signal to a digital signal;

encoding the audio signal;

packetizing the audio signal;

transmitting the audio signal;

decoding the audio signal; and

processing the audio signal, wherein processing at least comprises one of storing the audio signal and playing the audio signal.

However in the same field of music and speech discrimination Benyassine teaches converting the audio signal from an analog signal to a digital signal (figure 1, A/D converter 108);

encoding the audio signal (figure 1, encoder 112);

packetizing the audio signal (communication devices 102 and 106 may be cellular telephones radios, or VoIP systems; column 3 line 6-11. Cell phones and VoIP systems both used packetized data);

transmitting the audio signal (figure 1, signals are transmitted over communication medium 104);

decoding the audio signal (using decoder 114, figure 1); and

processing the audio signal, wherein processing at least comprises one of storing the audio signal and playing the audio signal (output of system is synthesized speech signal 120, figure 1).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the transmission scheme of Benyassine with the audio classification method of Saunders, Tzanetakis, and Pohlmann in order to provide an efficient way to effectively transmit audio signals (Benyassine; column 1 line 62 - column 2 line 13).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS C. GODBOLD whose telephone number is (571)270-1451. The examiner can normally be reached on Monday-Thursday 7:00am-4:30pm Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Edouard can be reached on (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DCG

/Richemond Dorvil/
Supervisory Patent Examiner, Art Unit 2626